

PATENT IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
MBHB Ref. No. 05-370

In the Application of:	)	
Garoff et al.	)	Group Art Unit: 1755
	)	
Serial No.: 10/536,523	)	Examiner:
	)	MCDONOUGH, JAMES E.
	)	
Filed: November 30, 2005	)	Confirmation No: 9469
	)	
For: Method for the preparation	)	
of olefin polymerization catalyst	)	
support and an olefin	)	
polymerization catalyst	)	

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

REQUEST PURSUANT TO MPEP § 710.06, REQUESTING THE ISSUANCE OF A NEW  
OFFICE ACTION AND RESETTING OF THE REPLY PERIOD

Dear Sir:

Pursuant to MPEP §710.06, Applicants respectfully request that the Patent Office issue a new office action and reset the reply period because 1) the office action contains at least one error, which affects Applicant's ability to reply to the Office action, and 2) the Applicants are submitting this petition within one month of the mailing date of the Office Action.

BACKGROUND

1. The above captioned patent application was filed at the U.S. Patent Office on November 30, 2005.

2. A first Office action was mailed on June 16, 2006.
3. A response was timely filed on September 13, 2006.
4. A final Office action was mailed on January 18, 2007.
5. Applicant responded to the final Office action on March 19, 2007. In the response, the Applicant amended the claims and made arguments.
6. The Office mailed an Advisory Action on April 5, 2007. In the Advisory Action, the Office stated that the proposed claim amendments would not be entered. Applicant's arguments were not addressed in the Advisory Action.
7. In response to the Advisory Action, on July 17, 2007, Applicant submitted a request for continued examination (RCE), a submission, and the appropriate fee. In the submission, the claims were amended, some of the prior arguments from the March 19, 2007, were repeated, and new arguments were made.
8. On September 17, 2007, the Applicants undersigned representative received two different, non-final Office actions from the Patent Office regarding this application. The two Office actions were similar but not identical. For example, one had 7 pages while the other had 8 pages. Both Office actions were identified as being responsive to Applicant's RCE submission that was submitted to the Patent Office on July 17, 2007.
9. Applicants contacted the Office and were informed that the Office action with 7 pages was the proper office action, while the Office action with 8 pages should be ignored.

10. In the Office action, many of Applicant's arguments from the after final response mailed March 19, 2007 were addressed, even though they were not repeated in the RCE submission. Applicant's arguments and claim amendments contained in the RCE submission do not appear to have been addressed.
11. The Office does not appear to address or acknowledge the following amendments made to the claims by the Applicants: 1) amendments made to claim 1 regarding the average particle size; 2) in claims 1, 17, 18, and 45, limiting the definition of the halogen containing aluminum compound through the use of Markush language; 3) in claims 10, 11, 32, and 45, the size of the hydrocarbonyl group was changed; and 4) in claims 38, 39, 49, 50, and 51, the size of the cycloalkyl group was changed.
12. Clarification regarding the status of the amendments made in paragraph 11 is requested.
13. The Office does not appear to address or acknowledge at least the following arguments made by the Applicants in their RCE submission in response to the novelty rejections based on the Gessell patent (US 4,496,660): 1) the present invention is directed towards the preparation of a catalyst support, whereas Gessell is directed to the preparation of a catalyst; 2) the differences in the properties between the catalyst of Gessell and the catalyst that may be prepared from the catalyst support of the present invention; 3) Applicant's new arguments based on the comparison of example 22 of Gessell to the instant

claims - the Office focuses on the solvents used in example 22, but this argument was made in the response filed March 19, 2007, and was not repeated in the RCE submission; and 4) Applicant's argument regarding average particle size.

14. The Office does not appear to address or acknowledge at least the following arguments made by the Applicants in their RCE submission in response to the novelty rejections based on the Garoff application (WO 01/55230)5): 1) Applicant's argument regarding Garoff's impregnating a liquid catalyst onto a porous support material in contrast to Applicant's preparation of a solid catalyst support; and 2) Applicant's argument regarding average particle size.

15. The Office does not appear to address or acknowledge at least the following arguments made by the Applicants in their RCE submission in response to the obviousness rejection based on Vereecke, et al., (WO 99/55741): 1) the washing of the solid support material. In the currently pending Office action, at the top of page 7, the Office asks "Applicants argue that since Vereecke washes his composition any reducing activity is washed away. This begs the question, if the reducing power is washed away in the reference how does it remain the in instant invention?" Applicants respectfully submit that this question appears to be in response to arguments made in the March 19, 2007, response, and not to the new arguments made on pages 18-20 of the RCE submission, which Applicant believes, address this

issue. 2) The Al compound reacted with the Mg compound in Vereecke differs from that of the currently pending claims; and 3) unexpected results.

#### **CONCLUSION**

The Applicant respectfully submits that the above identified errors in the Office action are being brought to the Office's attention within one month of the mailing date of the Office action and that these errors affect Applicant's ability to reply to the Office action. Consequently, Applicant respectfully requests the issuance of a new Office action and restarting the previously set period for reply to run from the date the error is corrected.

Should the Examiner believe a discussion of this matter would be helpful, he is invited to telephone the undersigned at (312) 913-2114.

Respectfully submitted,

Date: October 16, 2007

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